Proceedings of the Council

OF THE

LIEUT.-GOVERNOR OF BENGAL

FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS.

Index to Vol. XIX.

JANUARY TO DECEMBER 1887.

Published by Authority of the Council.

Calcutta:
PRINTED AT THE BENGAL SECRETARIAT PRESS.

1888.

Not printed for Sale.

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FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS

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PROCEEDINGS

OF THE

COUNCIL OF THE LIEUT.-GOVERNOR OF BENGAL

FOR THE

Purpose of making Laws and Regulations.

The Council met at the Council Chamber on Saturday, the 8th January, 1887.

Present:

The HON. SIR RIVERS THOMPSON, K.C.S.I., *Lieutenant-Governor of Bengal, President.*

The HON. G. C. PAUL, C.I.E., *Advocate-General.*
The HON. H. J. REYNOLDS, C.S.I.
The HON. C. P. L. MACAULAY, C.I.E.
The HON. T. T. ALLEN.
The HON. H. L. HARRISON.
The HON. MOULVIE ABDUL JUBBAR
The HON. LALLA BAN BEHARI KAPUR.
The HON. G. IRVING.
The HON. D. CRUICKSHANK.
The HON. ANUNDO MOHUN BOSE.
The HON. BABU KALLY NATH MITTER.

CALCUTTA SURVEY BILL.

THE HON. MR. REYNOLDS, in presenting the Report of the Select Committee on the Bill to provide for a survey of the Town of Calcutta, said that the modifications which had been introduced into the Bill were explained in some detail in the report of the Committee. The principal change which had been made was in the sections which provided for the procedure to be adopted in the case of boundary disputes. It was to be hoped that such disputes would not be numerous; but in the event of a dispute occurring, the Bill, as it originally stood, provided that the Superintendent of Survey should enquire into and decide them. It was intended that the survey should be carried out by a Superintendent of Survey—an officer of the professional Survey Department—and that he should be assisted by a civil officer of the standing of a

Deputy Collector; and it was considered that the Assistant Superintendent would be the officer best qualified to decide all boundary disputes at the time they occurred, subject to an appeal either to the Board of Revenue, or to any other authority the Local Government might appoint. The only other point to which he need refer was as to the section relating to boundary marks. The provisions of the Bengal Survey Act V of 1875, regulating boundary marks, were somewhat elaborate and very stringent. The Superintendent had power to order the erection of temporary or permanent boundary marks, and he had power to instruct the zemindars, talukdars, and other landholders to keep up, maintain, or preserve those boundary marks, and he had power also to apportion the expense of erecting and maintaining those boundary marks among the proprietors and occupiers of lands. The Committee had only reproduced these provisions in section 18 of the Bill so far as to allow the Superintendent to erect either temporary or permanent boundary marks, and to allow him to require the occupier of land to maintain any temporary boundary marks which might be put up until the survey had been completed and finished. The Committee had not introduced any provision for the maintenance by owners or occupiers of land of permanent boundary marks. It appeared to them that in such a survey as this the Calcutta authorities should naturally and properly be charged with this duty, and not the owners or occupiers of land; and that the Government and the Municipality, according as those authorities were interested in the maintenance of those permanent boundaries, should be charged with the expense.

Then, in section 20, the Committee had introduced some small modifications. To allow only one month to elapse after the complete survey as the time during which the papers might be inspected was too short a period, and might inconvenience all parties interested; therefore the Committee had provided, following the principle adopted by the Municipal Commissioners in the valuation of the town, that when the survey of any portion of the town was completed, the maps and papers should be deposited in the office of the Commissioners; and they had also extended the period for examining the papers and lodging objections from one month to two months. He moved that the Report of the Select Committee be taken into consideration in order to the settlement of the clauses of the Bill.

The motion was put and agreed to.

The HON. MR. HARRISON said that, as the Corporation of the Town of Calcutta was deeply interested in the subject of this Bill, he need make no apology for having carefully examined the provisions of the Bill in order to ascertain whether there was anything in it which seemed to require amendment for the convenience or in the interests of the people of the town. The result was the series of four amendments, of which he had given notice, only one of which touched an important question of principle; and as regards that particular amendment, he believed that the intention of the Bill and of his own amendment was identical; and if that was so, it was merely a question of wording.

[*Mr. Harrison ; Mr. Reynolds ; Mr. Anundo Mohun Bose.*]

The first amendment which he had to move was that in section 12 for "the Chairman of the Corporation, the arbitrator or one of the arbitrators," be substituted "the Chairman, Vice-Chairman, or Surveyor of the Corporation, one of the arbitrators, unless the parties agree to such officer being appointed sole arbitrator." He wished to add the Vice-Chairman or the Surveyor because in some cases that might be considered necessary in the interests of the Corporation, especially the inclusion of the Surveyor, who was the professional adviser of the Corporation in such matters. The meaning of the last portion of the amendment was this. The wording of the section as it stood in the Bill might be misunderstood. It was as follows :—

"Provided that, if it appears to the Assistant Superintendent that the Local Government or the Corporation of Calcutta is interested in any such dispute, he shall appoint, in the former case, the Collector or Deputy Collector of Calcutta, and in the latter case, the Chairman of the Corporation, the arbitrator or one of the arbitrators."

This left it to the Assistant Superintendent to appoint the Collector of Calcutta, or the Chairman of the Corporation, the arbitrator or one of the arbitrators at his discretion. MR. HARRISON hardly thought it wise that this power should rest in the Assistant Superintendent of Survey, because it might deter some people from going to arbitration who might otherwise be glad to do so. The Chairman and Vice-Chairman and the Surveyor of the Corporation were interested on behalf of the Municipality, and might be said to be judges in their own cause; and it was not desirable that the parties should be placed in the position of possibly finding any of these authorities appointed sole arbitrator without their consent: they might be appointed one of the arbitrators, unless the parties agreed to a sole arbitrator, which, in some cases, the parties interested might be willing to do. His main object was that they should not be bound to this sole arbitration without their consent.

The HON. MR. REYNOLDS said he had no objection to the amendment. He would have been very glad to have had the assistance of his hon. friend in the Select Committee; but knowing how much his time was taken up with the multifarious duties he had to perform, he had not pressed him to join the Committee. With regard to what had been said as to appointing the Collector of Calcutta or the Chairman of the Corporation sole judge, he did not think the wording of the section, if properly understood, would justify that conclusion, because it really meant that, when the parties applied for arbitration, and nominated on their own behalf one or more arbitrators, in that event the Assistant Superintendent might appoint either the Collector or Deputy Collector, or the Chairman of the Corporation, arbitrator on the other side. It would only be with the assent of all the parties concerned that such officer could be appointed the sole arbitrator. As, however, the amendment which his hon. friend had proposed made that clear, MR. REYNOLDS was quite willing to accept it.

The HON. MR. ANUNDO MOHUN BOSE said, with regard to the latter part of the amendment, that the wording suggested would perhaps make the intention of the section clearer; but as to the first part of it, he thought it would be better

that the Surveyor of the Corporation should be left out, and he suggested this omission in the amendment for the consideration of the Council. Reasons had been given in the Report of the Select Committee to show that the officer whose duty it would be to decide cases of disputed boundary should not be a professional gentleman, as it was considered that the decision of matters which were in the nature of judicial proceedings would be better left in the hands of a judicial officer instead of to a professional gentleman of the Survey Department. The same principle would apply to the case of the Surveyor to the Corporation, who was a professional gentleman. For the present Surveyor MR. ANUNDO MOHUN BOSE had the highest regard. He believed he was a Civil Engineer, and the reasons which had influenced the Select Committee to transfer all judicial investigations from the Superintendent to the Assistant Superintendent would apply fully in this case also. Then there was another fact, viz, that the Surveyor, if appointed an arbitrator, might very often have to sit in appeal on his own proceedings, because the boundaries would generally be laid down by the Corporation with the advice of the Surveyor himself. To place him in such a position would not be fair to the Surveyor. Therefore, he thought it would be better to include the Vice-Chairman in addition to only the Chairman as it stood in the section, but not to include the Surveyor.

The HON. MR. HARRISON said he was quite willing to leave the matter in the hands of the Council, but he thought the Surveyor was *the* officer whose experience particularly qualified him to act as arbitrator on behalf of the Corporation. He had charge of all the records, and much of his time was given to the consideration of this question of boundaries, and he was well acquainted with the rights of the Corporation. He was one of the officers who were specially mentioned in the section of the Municipal Act which selected certain officers for special privileges, and he was an officer appointed with the sanction of the Lieutenant-Governor and in some respects he would be a better officer to select than the Vice-Chairman. Looking to the standing of the officer, who was equal to a Deputy Collector, and was generally better paid, MR. HARRISON thought there were good grounds for including him in this section.

The HON. MR. HARRISON'S amendment was put to the vote and carried, and the section, as amended, was agreed to.

The HON. MR. HARRISON said he had an amendment to move in section 22, the object of which he would explain briefly. It embodied a question of principle which he was justified in saying the Hon. Member in charge of the Bill accepted and considered to be the principle of the present section, but MR. HARRISON doubted whether, as at present worded, it would effect its purpose. The question was this: It was important that the effect of the survey, after it had been completed, should be final. And it was more than important in the interests of the Corporation, who were paying a portion of the cost of the survey; because in the case of boundary disputes they could not at present appeal to the old survey with any advantage. The main object of the Corporation was to

prevent small encroachments on the roads whenever an owner rebuilt his house or a portion of it. There were some streets in which such encroachments had been successfully made, and valuable portions of the public streets had thus been appropriated by private individuals. The whole of Calcutta was honeycombed with foundations, and sometimes it was impossible to say how they came there; and when houses were rebuilt the owners often pointed to foundations which encroached on the road, and claimed to set forward their houses on the line of those foundations. In some cases, perhaps, such claims were well founded; in other cases they were not. And therefore the main benefit of the survey would be that when the time for appeal had expired, the results of the survey should be final. The Corporation would be able to refer to the survey maps, and determine the boundaries according to those maps. His fear was that this section of the Bill, as it was at present worded, would not lead to that result, because it simply said that no suit should lie to set aside any demarcation of boundaries unless brought within one year from the notification published in the *Gazette* approving of the survey. But the demarcation of boundaries, it was expressly enjoined, should be simply a record of possession: it would simply demarcate the boundaries in the possession of the parties. It would be decided at the time of the survey that such and such lands were in the possession of such and such parties. A person, however, might admit the question of possession, but might claim that it did not correspond with his title; that he was in no way bound by the boundaries fixed by the survey; and that he had still a right to bring a suit, within the period of twelve years prescribed by the law of limitation, to alter the boundaries in accordance with what he might prove to be his right. Under these circumstances, MR. HARRISON submitted that the wording which he proposed in his amendment would set all disputes at rest. If, however, any better wording was suggested, he did not ask that the wording in his amendment should be followed. It should, however, be made quite clear that the boundaries fixed by the survey were the correct boundaries, unless the owner could show by a suit brought within one year that the boundaries so marked were not the true boundaries. With this object he moved that for section 22 the following be substituted:—

"The boundaries of any land or premises as demarcated under the above procedure shall be deemed to be the correct boundaries, unless a suit is brought within one year from the date of the notification mentioned in the last preceding section to set aside such demarcation."

If the principle was admitted that the result of the survey was to be final, after the expiration of one year, as regards the question of title as well as the question of possession, MR. HARRISON asked the Council to say whether the section as now worded did clearly embody that principle or not.

The HON. BABU KALLY NATH MITTER said he was opposed to the amendment. Under the ordinary law of limitation a person had a period of twelve years to enforce his right of title to land by bringing a suit, and he did not see why that period should be curtailed to one year because there was to be a survey of the town.

The Hon. Mover of the amendment knew that, when the last survey was made, the boundaries of many private lands were included in the streets of Calcutta, and if there was this provision, then, that the survey was to be a final settlement of boundaries unless objection was taken within one year, all those boundaries of private lands would have become part and parcel of the streets, whereas they were in fact not part and parcel of them. Parties came forward afterwards to show that those portions of the streets were private lands, and that the surveyor who made the survey had made mistakes in putting them in as parts of the streets. As he understood the matter, Calcutta had changed to a great extent during the last few years, and therefore the survey made on the last occasion was not now a correct or complete survey of the town. Ditches had been filled up and converted into streets; new streets had been opened out where there were no streets before, and it was highly desirable that there should be a fresh survey to show what was the present state of the town. But he did not think it was intended that private interests were to be prejudiced. If a person had by the law of limitation twelve years to recover possession of his lands, he did not see why, by the mere fact of a fresh survey having become necessary, that right should be jeopardised.

The HON. MR. ANUNDO MOHUN BOSE said that he thought the Council ought not to accept the amendment of the Hon. Member, and for the reasons which had been pointed out by his hon. friend Babu Kally Nath Mitter. According to the present law, by virtue of Art 14 of the Second Schedule to the Limitation Act, a suit could only be brought within one year to set aside an act or order by a Government Officer; and the section in the Bill embodied that general provision. But it had been held over and over again by the Courts that, though you might not bring a suit within twelve years so as to set aside an official act, yet virtually and practically the same suit might lie when it was framed so as to make it a suit for the recovery of possession. Therefore, under the present law, if a person had been improperly deprived of possession over premises, lands or buildings, he could come up within twelve years and assert his right, but he could not frame it as a suit to set aside the demarcation of boundaries by the Superintendent; and that was exactly the principle which had been embodied in the Bill and laid before the Council by the Select Committee. But it appeared that the object of the amendment was to carry this principle a great deal further, namely, that it should be held that the boundary line of the survey should be accepted as correct unless a suit was brought within a year. It was not for him to give any positive interpretation of those words; but it seemed to him that the effect of the proposed alteration in the language of the section, coupled with the speech of his hon. friend, the mover of the amendment, might be to shew that it was the intention of the Legislature to alter the present law as to limitation. It was not desirable that under the cover of the present law for the survey of the town, and without any notice to the general public, they should encroach upon private rights, whatever might be the reason for proposing the change. He might further point out one thing. According to the amendment, the boundaries were to be accepted as correct unless a

suit was brought within one year from the date of the notification approving of the survey. This would seem to imply that the presumption as to the correctness of the survey boundary was to cease when a suit was brought within the year. But he might ask what would happen if such a suit were to be instituted without resulting in a decision on the merits. There might be a nonsuit, or the case might be dismissed on the ground of some formal defect, and might or might not be followed by other suits. The presumption as to correctness having been once destroyed, the amendment did not proceed to provide for this state of affairs. For all these reasons he thought the amendment ought not to be adopted, and that the Council ought to leave the section exactly as it was.

The HON. MR. REYNOLDS said that the amendment, as interpreted by the speeches of the two Hon Members, seemed to raise a double issue—one an issue of principle, and the other an issue which was merely verbal. He might say at once that his object in framing section 22, as it stood, was to secure the end which the Hon Mr. Harrison intended to secure by his amendment. He understood, under section 22 as it stood in the Bill, that any suit to set aside a demarcated boundary must be brought within one year, and that unless a suit was brought such demarcation would be final to prevent any subsequent question being raised in respect of those lands. But it appeared to him that this object was quite as well attained, possibly better, by the section as it stood in the Bill, than by the words of the amendment. He might say plainly that it was his intention to carry out that result; but he understood there were some objections to this Council passing a law which would conflict with the wording of the Limitation Act, which was an Act passed by the Governor-General in Council. If that was the case, perhaps the Hon. the Advocate-General would explain the point. If the amendment were shown to be inadmissible on this ground, MR. REYNOLDS hoped that the Hon. Member would be willing to allow the section to stand in the Bill as it was.

The HON THE ADVOCATE-GENERAL said that it seemed to him that the amendment in no way extended the operation of the Bill. The survey was based upon evidence of possession, and the boundaries mentioned in the Hon. Member's amendment would be arrived at in the same way, namely, upon evidence of possession. There was not a single word as to "title" in the Bill, but it was proposed to get rid of the question of title in an indirect manner. The question of title could not be set at rest by one year's limitation. The Bengal Council had no power to take away that right which every person had under the present law to bring a suit for recovering possession of his property within twelve years. The section which had been pointed out to him as possibly giving the Bengal Council that power was section 6 of the Limitation Act, which provided as follows:—"When, by any special or local law now or hereafter in force in British India, a period of limitation is specially prescribed for any suit, appeal or application, nothing herein contained shall affect or alter the period so prescribed." That section being read subject to section 42 of the Indian Councils' Act relates to Acts to be passed by the Governor-General in Council. Therefore the position he took up was this: *first*, that the amendment

would not extend the operation of this Bill. Section 11 of the Bill provided that an appeal should lie to the Board of Revenue. When that tribunal disposed of the appeal, there was an end to all litigation under the Act, except so far as section 22 provided that a suit might be brought within one year. If the object of the amendment was to affect title to land, he said it would not affect the question of title at all by providing a limitation of one year, as this Council had not the power to do that.

The HON. MR. HARRISON said that he was justly entitled to congratulate himself that the hon. member in charge of the Bill had intended by the section in the Bill to produce the same result that the amendment before the Council had for its object, but it appeared that Hon. Members who opposed the amendment thought it would not achieve that result. Then the next questions were whether it was desirable that that result should be achieved, whether the words he suggested would achieve it, and whether it was within the competence of this Council. As to whether it was desirable, he thought that if it was not done the survey would be deprived of a very great part of its advantages. It was precisely the element of finality that would make the survey the greatest boon, and it was on that account so desirable to attach a special period of limitation for the decision of all questions in relation to the boundaries to be demarcated by the survey. In the old possessory action of Magistrates there was a fixed period of limitation of six months within which parties were bound to bring a suit to alter the decision of the Magistrate. Similarly, after a survey was made and the boundaries laid down, a certain period should be allowed to bring a suit to prove any inherent rights of title, but if such right was not exercised within the time so fixed, the boundaries so determined should not be subject to be contested when any person rebuilt his house and sought to encroach upon the public road. In the second place, the question was whether the amendment did carry out the intention. With all respect to the opinion of the learned Advocate-General, MR. HARRISON maintained that the amendment did effect that object so far as the municipality was concerned, because there was no question that, when the lands lying alongside the road were once finally demarcated, no one could thereafter claim any portion of the roadway. Therefore, if it could be said that the correct boundaries of the road and the lands adjoining it were correctly marked in the survey, then all the disputes which now occurred would virtually be at an end, as far as regards the rights of the public No person could successfully claim that land was at one and the same time a part of a public road and a part of his private property. As regards the question of the competency of the Council to make such a provision of law, he must admit himself not to be able to contend against the opinion of the learned Advocate-General, if that was his opinion; and he could only express his extreme regret that an opportunity like this should be lost simply from want of power in the Local Council to pass what seemed to him to be so valuable a provision. The great advantage which the Town would derive from the survey would be much diminished by the inability of the Council to make the decision as to boundaries final, and by

leaving it open for ten or twelve years under the law of limitation for these boundary disputes to be brought forward in the way they were now done, which it was the object of the Corporation to settle once for all by this survey.

The HON. MR. MACAULAY said that, with reference to the last point, and with the greatest deference for the opinion of the learned Advocate-General, he would ask him to consider carefully the wording of section 6 of the Limitation Act. A local law was a law applicable to a local area, and, under those circumstances, the expression "British India" could not be intended to mean the whole of British India; otherwise it would not be a local law. If the objection to this being a local law fell to the ground, the objection to a law of the Bengal Council applicable to Calcutta only also fell to the ground; and therefore this Council had power to pass either the section contained in the Bill, or the amendment now before the Council. While he was not in favour of the amendment, he thought the section in the Bill would have the desired effect

The HON. MR. HARRISON, with reference to the opinion of the learned Advocate-General, then asked leave to withdraw the amendment.

THE HON. THE PRESIDENT said that he thought, on the whole, this was the more sensible course to take. In this conflict between lawyers it was difficult for laymen exactly to understand the point. It seemed to him that if they looked upon the way in which section 22 had been drawn, it would be a very doubtful question whether the Assistant Superintendent's decision on evidence of possession and the appeal to the Board of Revenue on the possessory evidence, could be set aside by a Civil Court if brought after twelve months from such decision. If parties dispossessed came before a Civil Court and asked for redress, section 22 would seem to preclude them unless an action was brought within twelve months. The words were clear "that no suit should be entertained to set aside any demarcation of boundaries unless brought within one year after the date of the notification." It would be after all for the Courts to decide whether section 22 evaded the right of limitation for twelve years or not. It was therefore better to leave the section as it stood in the Bill.

The motion was then by leave withdrawn, and section 22, as it stood in the Bill, was agreed to.

The HON. MR. HARRISON moved the following amendment in section 24, viz., that at the end of section 24 (*a*), for "or" substitute "and by fixing a copy on some conspicuous part of the land or premises to which it relates, or,". The object of the amendment, he said, was, if possible, to diminish the chance of a case being decided in the absence of the parties interested. In ordinary cases, no doubt, the parties would attend; but in some cases it would so evidently be the interest of one of the parties, if possible, to keep the other party in ignorance of what was being done, that special efforts might be made to prevent the other party, if out of Calcutta, from being made aware of the date fixed for the consideration of objections as to boundaries. The section provided that notice "should be served by delivering the same to the person to whom it is directed, or on failure of such service, by posting the same on some conspicuous part of

the house in which the said person usually resides or holds his office, or carries on his business, or by delivering the same to an agent or servant of such person, or to a male adult member of his family." In all these alternative courses it might be so manipulated by persons interested, that the notice should not reach the person interested. It would be safer to add that in all these cases a copy of the notice must be affixed to some conspicuous part of the land or premises to which it relates. He did not think that would be considered superfluous as an additional precaution to prevent the notice escaping attention.

The motion was put to the vote and carried, and the section, as amended, was agreed to.

The HON. MR. HARRISON also moved the following amendment in the same section, viz, that in the proviso attached to the end of section 24, for "the survey made under this Act shall not," substitute "after the publication of the notification referred to in section 21 no survey made under this Act shall,".

He said that, as this section was one of a little more importance, perhaps he should explain its intention and meaning. The proviso enacted that the survey made under the Act should not be vitiated for any defect in the service of notice. But looking to section 6 of the Bill, which provided for cases in which the parties failed to appear after service of notice, it seemed hard to reconcile the two sections. The amendment he proposed was one which seemed to meet the object of the Bill, viz., finality in decisions, and was on the whole more equitable. Section 21 provided that, after all objections had been decided, the Lieutenant-Governor should signify his approval of the survey. That was a sort of wind-up of the survey, and left objectors to bring their suits within a year. If a person neglected his own interest so long that he waited till this final notice in the Gazette, and did not object that the notice never reached him, he might be fairly told that he was too late; and that would seem to meet all requirements. The amendment would not only harmonize this section with section 6, but would justify the rejection of all objections made after the approval of survey had been notified in the Gazette.

The motion was put to the vote and carried, and the section, as amended, was agreed to.

THE HON. THE PRESIDENT remarked that, as the Bill had given rise to some discussion, he thought it would be better if its final passing into law was postponed till the next meeting of the Council.

The Council adjourned to Saturday, the 15th January, 1887.

CALCUTTA,
The 12th January, 1887.

GORDON LEITH,
Offg. Asst. Secy. to the Govt. of Bengal,
Legislative Department.

The Council met at the Council Chamber on Saturday, the 15th January, 1887.

Present:

The Hon. Sir Rivers Thompson, K.C.S.I., *Lieutenant-Governor of Bengal, President.*

The Hon. G. C. Paul, C.I.E., *Advocate-General.*
The Hon. H. J. Reynolds, C.S.I.
The Hon. C. P. L. Macaulay, C.I.E.
The Hon. T. T. Allen.
The Hon. H. L. Harrison.
The Hon. Moulvie Abdul Jubbar.
The Hon. G. Irving.
The Hon. D. Cruickshank.
The Hon. Anundo Mohun Bose.
The Hon. Babu Kally Nath Mitter.

CALCUTTA SURVEY BILL.

The Hon. Mr. Reynolds, in moving that the Bill to provide for a survey of the Town of Calcutta, as settled in Council, be passed, said—This Bill was very fully discussed at the last meeting of the Council, and as no further amendments have been put on the paper, I may assume that Hon. Members are satisfied with the Bill as it stands. I may also mention that it is a matter of some importance that this Bill should be passed without delay. Hon. Members are no doubt aware that the survey mentioned in the Bill has already been commenced, and the Officer in charge of the survey finds it necessary that he should be armed with the powers which this measure will confer upon him.

The motion was put and agreed to.

The Bill was passed accordingly.

The Council adjourned to Saturday, the 29th January, 1887.

Calcutta,
The 19th January, 1887.

Gordon Leith,
Offg. Asst. Secy. to the Govt. of Bengal, Legislative Department.

By subsequent order of the President, the Council was postponed to Saturday, the 12th February, 1887.

Calcutta.
The 26th January, 1887.

Gordon Leith,
Offg. Asst. Secy. to the Govt. of Bengal, Legislative Department.

The Council met at the Council Chamber on Saturday, the 12th February, 1887.

Present:

The HON. SIR RIVERS THOMPSON, K.C.S.I., *Lieutenant-Governor of Bengal, President.*

The HON. G. C. PAUL, C.I.E., *Advocate-General*
The HON. H. J. REYNOLDS, C.S.I.
The HON. C. P. L. MACAULAY, C.I.E.
The HON. T. T. ALLEN.
The HON. H. L. HARRISON.
The HON. A. W. CROFT, C.I.E.
The HON. MOULVIE ABDUL JUBBAR.
The HON. G. IRVING.
The HON. D. CRUICKSHANK.
The HON. ANUNDO MOHUN BOSE.
The HON. BABU KALLY NATH MITTER.
The HON. DR. MAHENDRA LAL SIRCAR, C.I.E.

NEW MEMBERS.

The HON. MR. CROFT, and the HON. DR. MAHENDRA LAL SIRCAR took their seats in Council.

CHOTA NAGPUR RURAL POLICE BILL.

The HON. MR. ALLEN moved that the Bill for the regulation of the Rural Police in the Chota Nagpur Division be referred to a Select Committee, consisting of the Hon. Messrs. Macaulay and Anundo Mohun Bose and the Mover, with instructions to report thereon in a fortnight.

The motion was put and agreed to.

The Council adjourned to Saturday, the 26th February, 1887.

CALCUTTA,
The 15th February, 1887.

GORDON LEITH,
Offg. Asst. Secy. to the Govt. of Bengal.
Legislative Department.

By subsequent order of the President, the Council was postponed to Saturday, the 12th March, 1887.

CALCUTTA.
The 23rd February, 1887.

GORDON LEITH,
Offg. Asst. Secy. to the Govt. of Bengal
Legislative Department.

The Council met at the Council Chamber on Saturday, the 12th March, 1887.

Present:

The HON. SIR RIVERS THOMPSON, K.C.S.I., *Lieutenant-Governor of Bengal, President.*

The HON. G. C. PAUL, C.I.E., *Advocate-General.*
The HON. H. J. REYNOLDS, C.S.I.
The HON. C. P. L. MACAULAY, C.I.E.
The HON. T. T. ALLEN.
The HON. SIR HENRY HARRISON.
The HON. SIR ALFRED CROFT, K.C.I.E.
The HON. MOULVIE ABDUL JUBBAR.
The HON. G. IRVING.
The HON. D. CRUICKSHANK.
The HON ANUNDO MOHUN BOSE.
The HON. DR. MAHENDRA LAL SIRCAR, C.I.E.

CHOTA NAGPUR RURAL POLICE BILL.

The HON. MR. ALLEN, in presenting the Report of the Select Committee on the Bill for the regulation of the Rural Police in the Chota Nagpur Division, said—The changes which we have made in the Bill are exceedingly small and the Report speaks for itself. As by the Rules for the conduct of business in the Council it is necessary that the Report of the Select Committee should be placed in the hands of Members for seven days before the Bill can be proceeded with any further, I have nothing further to say on the subject now.

CHITTAGONG PORT COMMISSIONERS' BILL.

The HON. MR. MACAULAY in presenting the Report of the Select Committee on the Bill to appoint Commissioners for the Port of Chittagong, said:—We have not thought it necessary to make any alteration of moment in this Bill, and I shall only now direct attention to two of the amendments made by the Committee. Under section 5 of the Bill as it stood, three out of nine Commissioners were to be elected by such "body, bodies, or firms engaged in commerce in the port as the Local Government may, from time to time, direct." Under instructions from the Government of India, we have made this direction of the Local Government subject to the previous sanction of the Governor-General in Council.

Next, section 14 of the Bill provides, in cases of acquisition of land for the purposes of the Port, for the payment only of the compensation awarded under the Act. It has been pointed out by the Government of India that there

are other charges connected with these proceedings, such as stamps and lawyers' fees, and we have accordingly introduced provisions for regulating them. The Bill has been now before the public for three months, and we have not received any suggestions for its improvement or any objections to it. I therefore propose at the next meeting of the Council to move that the Report be taken into consideration with a view to the settlement of the terms of the Bill.

STATEMENT OF THE COURSE OF BUSINESS.

The HON. THE PRESIDENT said—The Council will now be adjourned to Saturday next, and on that day I hope we shall be able to take into consideration the Bill for the Regulation of the Rural Police in Chota Nagpur, and to pass it into law. We shall also proceed with the consideration of the Bill for the creation of a Port Trust in Chittagong. On next Saturday also the Hon. Mr. Macaulay will introduce the Bill for the amendment of the Calcutta Port Improvement Act, 1870, which I hope will be passed before the end of the Session. The only other Bill which remains is the large measure before the Select Committee for the consolidation and amendment of the Municipal Law in Calcutta and the Suburbs. I understand from my friend Sir Henry Harrison, that the Report of the Select Committee will be placed before the Council before the close of the present Session, and it will then be laid on the table and published with a view to the final consideration of the Bill at the commencement of the next Session of the Council in November next.

The Council adjourned to Saturday, the 19th March, 1887.

CALCUTTA,
The 15th March, 1887.

GORDON LEITH,
Offg. Asst. Secy. to the Govt. of Bengal,
Legislative Department.

The Council met at the Council Chamber on Saturday, the 19th March, 1887.

Present:

The HON. SIR RIVERS THOMPSON, K.C.S.I., *Lieutenant-Governor of Bengal, President.*

The HON. G. C. PAUL, C.I.E., *Advocate-General.*
The HON. H. J. REYNOLDS, C.S.I.
The HON. C. P. L. MACAULAY, C.I.E.
The HON. T. T. ALLEN.
The HON. SIR HENRY HARRISON.
The HON. SIR ALFRED CROFT, K.C.I.E.
The HON. MOULVIE ABDUL JUBBAR.
The HON. G. IRVING.
The HON. D. CRUICKSHANK.
The HON. BABU KALLY NATH MITTER.
The HON. DR. MAHENDRA LAL SIRCAR, C.I.E.

CHITTAGONG PORT COMMISSIONERS' BILL.

The HON. MR. MACAULAY, in moving that the Report of the Select Committee on the Bill to appoint Commissioners for the Port of Chittagong be taken into consideration in order to the settlement of the clauses of the Bill, said that, with His Honour's permission, he would combine the first two motions which stood in his name. He had the honour to invite the attention of the Council to an oversight which had occurred in the draft Bill and which required amendment. It would be observed that the main body of the Bill had been taken from the Indian Act XV of 1879, the Rangoon Port Trust Act, because it was understood that the circumstances of the Port of Chittagong would more closely resemble those of Rangoon than those of the larger ports of Calcutta and Bombay. At the same time the constitution of the body of the Port Commissioners of Chittagong was framed more upon the lines of the Acts applying to the larger ports. Now the section relating to the disqualification of Commissioners was taken from the Bombay Act, which contained a saving clause regarding a particular Commissioner being interested in the loans of the Commissioners; while section 73 was taken from the Rangoon Act, which, for reasons which he did not understand, rendered a Commissioner who lent money to the Commissioners at large liable to disqualification and to fine. The Council must take either the two sections of the Bombay Act or the two sections of the Rangoon Act. He believed the Council would think it desirable to follow the lines of the Bombay Act, which permitted Commissioners to invest in the debentures of the Port Trust, and he would therefore ask for leave to move a provision in substitution of section 73 to the above effect.

The motion was put and agreed to.

[*Mr. Macaulay; The President; Mr. Allen; Dr. Mahendra Lal Sircar.*]

The HON. MR. MACAULAY moved that the following section be substituted for section 73 of the Bill:—

"Any Commissioner or servant of the Commissioners, who shall acquire, directly or indirectly, any share or interest in any contract or employment with, by, or on behalf of, the Commissioners, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code:

Provided that nothing in this section shall apply to a person—

(*a*) having a share in any Joint-Stock Company which shall contract with, or be employed by, or on behalf of, the Commissioners; or

(*b*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Commissioners may be inserted; or

(*c*) interested in any loan of money to the Commissioners."

The HON. THE PRESIDENT said, Hon. Members would observe that the Bill, as it stood in section 73, conflicted with the terms of section 8, which referred to the disqualification from office of Commissioners. The amendment which had just been moved would be substituted for section 73, and would bring it into harmony with the provisions of section 8. It was therefore necessary that section 73, as it stood, should be altered.

The motion was put to the vote and carried, and the section, as amended, was agreed to.

CHOTA NAGPUR RURAL POLICE BILL.

The HON. MR. ALLEN moved that the Report of the Select Committee on the Bill to provide for the regulation of the Rural Police in Chota Nagpur be taken into consideration in order to the settlement of the clauses of the Bill. He said on the last occasion that he considered it unnecessary to detail the changes which had been made by the Select Committee in the original form of the Bill as they were exceedingly few. The district of Manbhum had been exempted from the operation of the Bill until it should be included therein by a notification of the Lieutenant-Governor of Bengal. In the section providing for distraint of property, plough-cattle, and agricultural implements were exempted, and in accordance with a suggestion of the Government of India, a clause had been added to section 8 which allowed of the appointment of a panchayat in villages where the materials for the appointment of such panchayats were to be found. In section 32, which forbade the chaukidar abandoning his post without previous notice, a penalty had been provided, also in accordance with a suggestion of the Government of India, and the penalty was the same as that provided in Act V of 1861 and Act XV of 1870 for the regulation of the village police in the North-Western Provinces. Substantially, the Act would remain as it was originally passed in 1878, with these few exceptions.

The motion was put and agreed to.

The HON. DR. MAHENDRA LAL SIRCAR moved that to section 6 the following clause be added:—"If any zemindar or tenure-holder is dissatisfied with such determination, he may appeal, within thirty days therefrom, to the Commissioner, who shall pass such orders as to him seems proper." He explained that this addition was analogous to the clause in section 25 of the Bill, which gave

[*Dr. Mahendra Lal Sircar; The Advocate-General; Mr. Macaulay; The President; Mr. Allen.*]

a right of appeal from the order of the Deputy Commissioner declaring what zemindars or tenure-holders were liable for the maintenance of road patrols. If an appeal was to be allowed in such cases, he thought that an appeal should also be allowed from an order determining the amount to be paid for maintaining the village police.

The HON. THE ADVOCATE-GENERAL apprehended that, there could hardly be any question to be heard in appeal in a question of this sort. It did not require the safeguard of an appeal.

The HON. MR. MACAULAY would go further and say that, such questions as would probably arise in appeal under this section might be exceedingly inconvenient. An appeal might go into the question of the number of chaukidars which should be employed, and of the grouping of villages, of which the Commissioner might have no knowledge whatever.

The HON. THE PRESIDENT said he would like to know what remedy a man brought under this liability would have if he contested it.

The HON. MR. ALLEN observed that the force of the amendment lay in this: If a zemindar or under-tenure-holder was dissatisfied with the determination of the Deputy Commissioner, he should appeal to the Commissioner; but by the preceding section the matters for the Deputy Commissioner to determine were the number of village policemen and the pay of each. The only questions upon which he could appeal, therefore, were as to the number of village policemen to be appointed in each village, and the pay which they should receive; and the Bill provided limits in both these cases. The discretion of the Deputy Commissioner was almost completely taken away. He could not give a pay of more than Rs. 4, or less than Rs. 2, per mensem, and he could not appoint for a particular village more than the number of policemen which the law allowed, and he must determine the assessment according to the number of houses in each village. Moreover, every act of the Deputy Commissioner was subject to the control and orders of the Commissioner, and it required no provision of law to make his orders subject to such control. Probably the Hon. Member thought that by the introduction of this clause the liability of a zemindar or under-tenure-holder to police service would be open to appeal, but the amendment did not provide for that.

The motion was, by leave, withdrawn.

The HON. DR. MAHENDRA LAL SIRCAR moved that in section 8, paragraph 1, the words "a Board consisting of" be inserted after "thereupon;" and the words "and the headman of the village or any other person appointed by the Deputy Commissioner," after "belongs." The object of this amendment, he said, was to associate with the tehsildar some one, preferably a headman, if such an one was available, in the business of assessment, and thus to minimise the evils of taxation when the tax-gatherer himself was the assessor.

The HON. MR. ALLEN said he was unable to accept this amendment. The Hon. Member was anxious to provide a Board, but what the Board was to do after it was formed was nowhere said. The other sections of the Act knew

[*Mr. Allen; The President; Dr. Mahendra Lal Sircar; The Advocate-General; Mr. Reynolds.*]

nothing of a Board. They provided for the appointment of tehsildars and other officers, but a Board was unknown. This amendment would have no other effect than to call into existence a Board which would have no functions. The Hon. Member was apparently not acquainted with the circumstances of the villages of Chota Nagpur. It was the difficulty of getting intelligent headmen in the villages that had necessitated a change in the law of 1878. It would probably surprise the Hon. Member to hear that the headmen, where they even nominally existed, were not Hindus at all, but aborigines, and the Council could well understand what sort of a Board there would be consisting of a Bengali or a Behari tehsildar and a Kol *munki*. The amount of work they would get through would be exceedingly small, and to attempt to work the provisions of the Act relating to the assessment of the tax by such a Board would be something like attempting to plough a *khet* with a buffalo and a camel attached to the yoke. The amendment appeared to him to have been brought forward without sufficient knowledge and consideration of the circumstances which applied to the case.

The HON. THE PRESIDENT said, it would be noticed that the action taken by the Select Committee on the Bill was to introduce a system of panchayats where it was possible to do so, and where the intelligence of the residents led them to think that it would be to their interest that a panchayat should be appointed. The provisions of the section fully provided for that. His Honour thought sufficient provision had been made for an enlarged system of working the Bill. For himself, he was not inclined to support the amendment.

The motion was put and negatived.

The section, as it stood in the Bill, was agreed to.

The HON. DR. MAHENDRA LAL SIRCAR moved that the following clause be added to section 13:—"Each circle tehsildar shall give security, the amount of which shall be determined by the Deputy Commissioner." He said that as the collection of money would be entrusted to circle tehsildars, they should be required to give security.

The HON. MR. ALLEN considered it quite unnecessary to provide by law for the taking of security, as the Deputy Commissioner could do so by executive action if it was found desirable.

The HON. THE ADVOCATE-GENERAL remarked, that the object of the amendment was to ensure the employment of trustworthy persons—a duty which he thought might safely be left to the discretion of the proper authorities.

The HON. MR. REYNOLDS pointed out that the taking of security from revenue officers was regulated by rule, and he thought it was more convenient that it should be so regulated.

The HON. THE PRESIDENT observed that there was nothing in the Bill to prevent the Deputy Commissioner requiring some form of security to be taken if in any place the collections made under the Act were large.

The motion was put and negatived.

The section, as it stood in the Bill, was agreed to.

[*Mr. Allen; Dr. Mahendra Lal Sircar; The President.*]

The HON. DR. MAHENDRA LAL SIRCAR moved that in section 16, line 2, the words "warrant in" be inserted before "writing." The object was to make it clear that there should be a warrant.

The HON. MR. ALLEN explained that the order for distraint provided in section 16 was not to be a warrant for the distraint of the property of a particular individual, but a general authority to distrain the property of a number of defaulters. He did not think the amendment would make the intention clearer.

The motion was put and negatived.

The section, as it stood in the Bill, was agreed to.

The HON. DR. MAHENDRA LAL SIRCAR moved that in section 22, clause 1, line 3, the word "jurisdiction" be substituted for "limits." He pointed out that the word used in clause 3 of the same section was "jurisdiction," and not "limits," and he moved this amendment simply for the sake of uniformity.

The HON. MR. ALLEN said that of all the amendments of which notice had been given, this was the most objectionable. It was dangerous to meddle with the words used by a draftsman in an Act, and he never ventured to do so without the fear that the drafter had some precedent behind him. The word "jurisdiction" could in no correct sense apply to the police: a judge had jurisdiction, a policeman had not; and throughout the Criminal Procedure Code the word "limits" was used in connection with police stations. Although the Council had been charged with corrupting the people of Bengal by its excise legislation, they must stop somewhere and not corrupt the English language.

The HON. THE PRESIDENT said he thought attention had been very properly directed to the diversity of language in the Bill; and following the precedent of the Criminal Procedure Code, which was authoritative on the subject, he would be induced to support the use of the word "limits" throughout the Bill instead of "jurisdiction."

The motion having been by leave withdrawn—

The HON. MR. ALLEN moved that throughout the Bill the word "limits" be substituted for "jurisdiction" when used in connection with a police station. In this way the language of the Bill would be brought into conformity with the language of the Criminal Procedure Code, which must regulate the language of legislation on cognate subjects.

The motion was put to the vote and carried, and the section, as amended, was agreed to.

The HON. DR. MAHENDRA LAL SIRCAR moved that to section 30, clause 2, the following words be added: "and shall forthwith take the person so arrested to the police station within whose limits he acts as road patrol." He said that the clause as it stood authorized the arrest of certain persons, but made no provision as to what was to be done after arrest: a policeman ought to know what he should do after arresting a person. The amendment simply repeated the procedure on arrest as given in section 23.

The HON. MR. ALLEN said it certainly did seem strange that while section 23 contained a provision imposing upon a village policeman the duty of

immediately carrying the person whom he arrested to a police station, a similar obligation should not be imposed on a road patrol, and he could give no explanation of the omission, except that sections 59 and 60 of the Criminal Procedure Code required all private persons and police officers who arrested any person to take him forthwith to a police station. Why the same sections were not considered sufficient to ensure a village police officer carrying the person arrested to the thana it was difficult to say. He had, however, no objection to this amendment.

The motion was put to the vote and carried, and the section, as amended, was agreed to.

The HON. DR. MAHENDRA LAL SIRCAR moved that in section 32, paragraph 2, line 10, the word "fine" be substituted for "penalty." This, he said, was apparently a mere verbal amendment. But as the word "penalty" included imprisonment, and as the word "imprisonment" was used in the next line, as if separated from "penalty," he thought it would be better to substitute the word "fine" for the word "penalty."

After some conversation, the motion was put to the vote and carried, and the section, as amended, was agreed to.

The HON. MOULVIE ABDUL JUBBAR asked permission to move an amendment in section 5, paragraph 3. He thought the expression "the value of the chakran lands" did not indicate sufficiently clearly that it was to be the "annual" value. He would insert the word "annual" before the word "value."

The HON. MR. ALLEN considered that the word "value" covered annual value or any other value.

The HON. SIR HENRY HARRISON thought that if any change should be made, it ought to be made by the insertion of the word "monthly," and not "annual."

The motion was put and negatived.

The section, as it stood in the Bill, was agreed to.

The HON. MR ALLEN postponed the motion, which stood in his name, that the Bill, as amended, be passed.

CALCUTTA PORT IMPROVEMENT ACT AMENDMENT BILL.

The HON. MR. MACAULAY introduced the Bill to amend the Calcutta Port Improvement Act, 1870, and moved that it be read in Council. He said he obtained the permission of the Council to introduce this Bill on the 23rd of December last, and the delay which had occurred was due to the observance of certain formalities which had been prescribed by the Secretary of State. At the time he introduced the Bill he stated that its scope would be confined to the amendment of the constitution of the Port Trust, and that the details would be explained hereafter Hon. Members would observe that practically the only important section of the Bill was section 4. By that section it was provided that five of the Commissioners should be elected—four by the Chamber of Commerce, and one by the Calcutta Trades' Association—and that

the remaining eight should be appointed by the Local Government, with the proviso that at least two of the total number should be natives of India, resident in the town or suburbs of Calcutta. There might possibly be a discussion as to the extent to which an endeavour should be made to give further representation to railway and other special local interests, but this he thought might be left for consideration by the Select Committee. He had observed that the scope of the Bill had been entirely confined to the object of recognising by legislation that there should be the elective principle in the constitution of the Port Trust. He mentioned this because, at the last moment, a proposal had been received from the Port Commissioners to introduce a clause providing for pensions to be given to their servants. That was a large question, which required much consideration. Moreover, to take it up now would involve serious delay in view of the forms which the Council had to observe. It was practically a new departure from the existing Act, and the introduction of a new Bill. He thought it was desirable that, if such a measure should be considered, it should take the form of a new bill, which need not interfere with the passing of the present one.

The motion was put and agreed to.

The Bill was read accordingly.

The HON. MR. MACAULAY moved that the Bill be referred to a Select Committee consisting of the HON. MR. ALLEN, the HON. MR. IRVING, the HON. BABU KALLY NATH MITTER, the HON. DR. MAHENDRA LAL SIRCAR, and the Mover, with instructions to report in one week.

The HON. THE PRESIDENT said he was sorry the Council would not have the help of the HON. MR. CRUICKSHANK, who represented the mercantile interests, in the consideration of this Bill, as he was to leave Calcutta that day. Under these circumstances, they would not be able to have his services on the Committee on this Bill; but His Honour had no doubt that the Select Committee which had been nominated would give the Bill the fullest consideration in view of the particular interests which were involved.

The motion was put and agreed to.

The Council adjourned to Saturday, the 26th March, 1887.

CALCUTTA,
The 22nd March, 1887.

GORDON LEITH,
Offg. Asst. Secy. to the Govt. of Bengal,
Legislative Department.

The Council met at the Council Chamber on Saturday, the 26th March, 1887.

Present:

The HON. SIR RIVERS THOMPSON, K.C.S.I., *Lieutenant-Governor of Bengal, President.*

The HON. G. C. PAUL, C.I.E., *Advocate-General.*
The HON. C. P. L. MACAULAY, C.I.E.
The HON. T. T. ALLEN.
The HON. SIR HENRY HARRISON.
The HON. SIR ALFRED CROFT, K.C.I.E.
The HON. MOULVIE ABDUL JUBBAR.
The HON. G. IRVING.
The HON. ANUNDO MOHUN BOSE.
The HON. BABU KALLY NATH MITTER.
The HON. DR. MAHENDRA LAL SIRCAR, C.I.E.

CHITTAGONG PORT COMMISSIONERS' BILL.

The HON. MR. MACAULAY moved that the Bill to appoint Commissioners for the Port of Chittagong, as settled in Council, be passed. He said:—In laying this motion before the Council he would merely inform them that from the time when he first had the honour of addressing the Council on the subject, he had constantly increasing evidence of the necessity for this measure. Recently he was informed by Mr. Lyall, the Commissioner of Chittagong, that no less than four ships were unable to proceed to sea because there was no tug to take them out, and two of these ships, in attempting to get out without steam, had gone aground, and another had to employ the mail steamer to tow her out. Then, again, Mr. Lyall had submitted an official report on a series of complaints made by Messrs. Ralli and Company of the great inconveniences to which the shipping were put by not only the absence of tugs, but the want of proper lighting of the approaches to the port. All these inconveniences would be removed by the operation of the Act which he now asked the Council to pass.

The motion was put and agreed to.

The Bill was passed accordingly.

CHOTA NAGPUR RURAL POLICE BILL.

The HON. MR. ALLEN said that before proceeding with the motion which stood in his name, he wished to remove a misapprehension which occurred on the last occasion, which perhaps his remarks had given rise to. In speaking of the impossibility of appointing a Board for the assessment and collection of the chaukidari tax, he mentioned the incongruity of a Hindu tehsildar and a Kol *manki* sitting together. He had assumed a knowledge of Chota Nagpur on the part of members, which apparently was absent, and his remark was therefore misunderstood; and he took this opportunity of saying that the *manki* he referred to had nothing whatever to do with the wild animal which lived in the jungles.

t was the name used in every Larka Kol village for the headman. It was ıe same word which was found in the Sonthal Pergunnahs, pronounced as *manji*, nd which, in accordance with the phonetic laws that governed the interchange f words in these two languages, was changed from *manji* to *manki*. He now ıoved that the Bill for the Regulation of the Rural Police in the Chota Nagpur)ivision, as settled in Council, be passed.

The motion was put and agreed to.

The Bill was passed accordingly.

CALCUTTA PORT IMPROVEMENT ACT AMENDMENT BILL.

The Hon. Mr. Macaulay, in presenting the Report of the Select Comıittee on the Bill to amend the Calcutta Port Improvement Act, 1870, said ıat he proposed, with His Honour the President's permission, to reserve any emarks which he had to make upon this Bill until the next meeting of the ouncil, when he would propose that the report be taken into consideration, ıe terms of the Bill be settled, and the Bill, as amended, be passed.

The Council adjourned to Saturday, the 2nd April, 1887.

Calcutta,
The 29th March, 1887.

Gordon Leith,
Offg. Asst. Secy. to the Govt. of Bengal, Legislative Department.

The Council met at the Council Chamber on Saturday, the 2nd April, 1887.

Present:

The HON. SIR RIVERS THOMPSON, K.C.S.I., *Lieutenant-Governor of Bengal, President.*

The HON. G. C. PAUL, C.I.E., *Advocate-General.*
The HON. C. P. L. MACAULAY, C.I.E.
The HON. T. T. ALLEN.
The HON. SIR HENRY HARRISON.
The HON. SIR ALFRED CROFT, K.C.I.E.
The HON. MOULVIE ABDUL JUBBAR.
The HON. G. IRVING.
The HON. ANUNDO MOHUN BOSE.
The HON. BABU KALLY NATH MITTER.
The HON. DR. MAHENDRA LAL SIRCAR, C.I.E.

CALCUTTA PORT IMPROVEMENT ACT AMENDMENT BILL.

The HON. MR. MACAULAY, in moving that the Report of the Select Committee on the Bill to amend the Calcutta Port Improvement Act, 1870, be taken into consideration in order to the settlement of the clauses of the Bill, said:—He need only point out to the Council two main alterations which had been made in the Bill. In the first instance, the Committee had thought that the system of election would be made more complete if some reciprocity was recognised in the arrangement which the Select Committee on the Municipal Bill proposed of allowing the Port Commissioners to elect a certain proportion of the Commissioners of the Town of Calcutta. They thought that by allowing the Town Commissioners to elect a member of the Port Commission, they would at once secure the counterpart of this arrangement, and provide for some representation of local interests on the Board. The next point was the consideration which was laid before them by members of the existing Port Trust, who represented that it would be extremely inconvenient if the Bill brought about at once a system of general election, and that continuity of experience in the Port Trust was a matter of such great importance that it would be desirable to allow the appointments of existing members to run for the term for which they were originally made. The Committee proposed accordingly that, as vacancies fell in, they should be filled up by election by the bodies who informally were now represented on the Board by such members. He moved that the clauses of the Bill be considered for settlement in the form recommended by the Select Committee.

The motion was put and agreed to.

The HON. MR. ANUNDO MOHUN BOSE moved that, in the last clause of section IV, the words "not less than" be inserted before the word "two." He said the proviso to this section enacted that when all the vacancies in the number of Commissioners appointed under Bengal Act V of 1870 had been filled under the first four clauses of section X, two of the Commissioners should

be natives of India residing in Calcutta or Howrah. He believed the object was to provide that at least two of the Commissioners should be natives of India, and not to fix two as the statutory number of which the representation of native interests should consist. In fact, if the latter were the object. it would hardly be effected by the Bill as it stood ; and for this reason, that where there was a system of election more than two natives of India might come in by election. He might state that that was also the language in the Bombay Act, in which it was provided that not less than three Commissioners should be natives of India.

The HON. MR. MACAULAY said he had no objection to the amendment. It was intended that two should be recognised as the minimum number, and, perhaps, it would be better to adopt the Hon Member's proposal.

The motion was put to the vote and carried, and the section, as amended, was agreed to.

The HON. MR. ANUNDO MOHUN BOSE moved that to paragraph 4 of section V the following be added :—

"And one shall be elected by such body, bodies or firms representing the native commercial community of Calcutta as the Local Government may, with the previous sanction of the Governor-General in Council, from time to time direct In the first three cases, the election shall be held."

He said he trusted it would be possible for the Council to accept this amendment, which he submitted was a very small and a very moderate one, and he hoped it might be possible by accepting it to make a concession to the expression of native as well as Anglo-Indian public opinion on the subject, and also to the just requirements of the case. The amendment did not introduce any new proposal. All that it suggested was that, the Bill having affirmed the principle that there should be at least two native members on the Port Commission, one of these members should be a direct and accredited representative of the native commercial community of Calcutta. He believed this would save the Government some responsibility, and the rather invidious task of selecting a native gentleman to represent native commercial interests. The Government accepted the principle of there being two native members on the Port Commission. It also accepted the principle of election as far as the Chamber of Commerce and the Trades' Association and the Municipal Corporation were concerned. It laid down that instead of the members of these bodies being selected in an informal way, as at present, they should be allowed to say whom they wanted to have on the Port Trust to represent their interests; and it was eminently desirable that the same concession should be made in favour of the native commercial community. It was pointed out in the Report of the Select Committee, in connection with the memorial received from the National Chamber of Commerce, that it was a body which had not existed long, and that its status was not sufficiently known to justify this power being placed in its hands. He entirely appreciated that difficulty, but he submitted that it might be met in the way he had indicated, in a way which was not of his own suggesting, but which he had taken from a Bill which had been passed by this Council only last Saturday, namely, the Chittagong Port Commissioners' Bill.

There also there was a difficulty felt owing to the fact of no organization being in existence which could send some elected representative to the Port Commission; and therefore, in order to give effect to the principle of representation, the Council adopted the expedient which he had followed in this amendment. That was a precedent to which he appealed in favour of his amendment, the language of which also was virtually taken from section V of that Act. And he might also point out that in the Port of Calcutta, not only was a large amount of revenue derived from the foreign trade, from the jetties and quays to which steamers and ships resorted, but tolls to the extent of nearly Rs. 4,00,000 were derived annually from the inland vessels or boat wharves at which the inland trade was carried on. The exact figures in the last report were these. The revenue derived from the foreign trade at the jetties, including "miscellaneous," was stated to be Rs. 9,09,758, while the tolls received at the inland wharves from boats was Rs. 3,93,587. On these grounds he hoped the Council would accept this amendment, which did not limit the Government to any particular body, though it was to be hoped that the recently-constituted body would show signs of vitality and justify the Government in conferring the privilege of election upon it. But in any case, the Government would have no difficulty in finding a suitable electorate for the purpose, as indicated in his amendment.

The HON. MR. MACAULAY said that he regretted he was unable to recommend to the Council the adoption of this amendment. The Hon. Member had rightly pointed out that his amendment followed the provision made in the Port Trust Bill for Chittagong, but Mr. Macaulay was wholly unable to follow him in the comparison which he sought to establish between the course which the Council adopted then and that which they were asked to adopt now. When he had the honour of laying that measure before the Council, he explained that selection by Government or local bodies or firms to exercise the elective franchise was the only practicable expedient, but that it was a very clumsy expedient. The desire was to give the right of election to the representatives of the Commerce of the Port. But though there would no doubt some day be a Chamber of Commerce at Chittagong, at present there was none, and the only alternative to abandoning the elective principle altogether was the very awkward expedient of leaving the Government to select certain firms, and allowing them to exercise the franchise. Had there been a Chamber of Commerce at Chittagong, or any body to represent commercial interests, no mention would have been made of the selection of firms. Yet in a Bill which related to the Port of Calcutta, where there was a long-established Chamber of Commerce, where there was an incorporated Trades' Association, and an enlightened and powerful Municipality—in a Bill which provided for a more elaborate system of election to the Port Trust than any other measure of the kind on the Indian Statute book—his hon. friend proposed to introduce a provision from a measure which related to one of the smallest ports of India—a measure which owed its elementary character, so far as the provision for election was concerned, to the very circumstance that the port had not reached the point of commercial representation at all. For this reason, on the ground of form only, he would ask the Council to reject the amendment.

[*Mr. Macaulay.*]

His hon. friend appeared rightly to recognise that the effect of the amendment would be that the right of election would be given to the National Chamber of Commerce. Clearly that would be the result, because the only other alternative would be one which it would be very difficult for the Government to accept. As there was no other native commercial body than the National Chamber of Commerce, if that body was not allowed the right of election, then the Government would have a task to fulfil, which might be easy enough in Chittagong, where there were but five or six mercantile firms, but which would be very difficult in Calcutta. It would have to select from the numerous native firms in this great city a sort of *corps d'elite*, who would have the right of election, to the exclusion of all others. This duty, like all other unpleasant duties, would fall on the Government, and he apprehended that if the Council laid this duty on the Government of Bengal, it would be doing an act which might not tend to promote friendly feelings between the Council and their incoming President. He thought it would have been better if his hon. friend had proposed in plain words to give this right to the National Chamber of Commerce. In support of his views, the Hon. Member had referred to certain figures, but Mr. Macaulay would remind him that the question was not whether native commercial interests should be recognised—a point on which all were agreed—but whether this particular body should be recognised, by law, as the accepted representative of those interests. He might mention that he had had the honour the other day of receiving a deputation of four very intelligent gentlemen, members of this new body—the President, two members, and the Secretary—who made a suggestion very much like that embodied in the amendment. But after Mr. Macaulay had pointed out to them the difficulties in the way, he understood them to withdraw the suggestion. He had then discussed with them generally the question whether the request contained in their memorial, which was now before the Council, could be complied with, and he had pointed out to them that the Legislature would probably find great difficulty in giving legal status and recognition to a body like theirs, which, though it bore many honourable names, had been very recently established, and had not yet had the opportunity of showing by its working how far it possessed the elements of stability, or how far it was really accepted and acknowledged by the native merchants as the guardian of their interests and the exponent of their views. He had recommended them, from himself, to work quietly for a time, and by their working to justify them hereafter in approaching the Government with the prayer that their claim to be represented on the Port Trust might be recognised by the Legislature. He understood them to accept that advice. As he had pointed out, it was not a question of the representation of native interests, because provision had been made that two members of the Port Trust should be natives, and his hon. friend only proposed that one of these two should be elected in the manner suggested. He could safely say that the Government would always endeavour to select as much as possible, under the Act, a genuine representative of native commercial interests. He mentioned this, not because he wished in any way to detract from the force of anything which had been said, but to show that the memorial of the

National Chamber of Commerce had been duly considered. On the merits of the amendment he hoped the Council would reject it.

The HON. BABU KALLY NATH MITTER said that, as one of the members of the Select Committee, it would not be out of place if he said a few words on this subject. This representation of the National Chamber of Commerce was laid before the Committee, and they were unanimously of opinion that this body had not been in existence for such a length of time, and that its status was not such, as to justify the power of election being vested in it by law; and it was only on that ground that the Committee, though it was anxious to give representation to this body, had come to the conclusion, after much deliberation, that they would not be justified in giving it that status by legislation. He thought there was a good deal in what the Hon. Member in charge of the Bill had said with reference to the comparison which the hon. mover of the amendment had drawn between Calcutta and Chittagong. It seemed to him that it would be an awkward thing for Government to determine to what native firms in this city the power of election should be given. On principle, he was entirely with the Hon. Member that the native commercial interest should be represented in the Calcutta Port Trust by election, and he hoped that when the time came for the Acts relating to the Port Trust to be consolidated, the claims of this body, if it then showed signs of vitality, would be reconsidered.

The HON. MR. ANUNDO MOHUN BOSE said in reply that the effect of adopting the amendment would not necessarily be, as the hon. member in charge of the Bill seemed to apprehend, the recognition of the Bengal National Chamber of Commerce. He was not speaking as the champion of that body. With regard to the alleged difficulty in the selection of native firms, he would draw the attention of the Council to an important letter from the British Indian Association, in which a scheme was sketched out, by which, without the Government committing itself in the slightest degree to the recognition of the newly-started National Chamber of Commerce, the principle of giving direct representation to the native commercial community might be easily acted upon. The Association pointed out that all merchants who paid a certain amount to the municipality, by way of license to carry on their business, might be recognized and constituted into an electoral body, and they might be asked to elect some members of the Port Commission. Therefore it was plain that if this amendment were accepted, the Government would not be under the necessity of recognizing this new body, but would be able to give effect to the principle of election, the importance of which he was glad to see admitted. Not only as regards the total amount received in the shape of tolls, but also as regards the net amount of revenue derived from inland trade, he found that it amounted to Rs. 1,47,000, as against Rs 2,96,000 from the foreign trade; and there also the proportion was maintained, showing that one-third of the income of the Port was derived from this source. It would be a matter of deep regret if an interest so large and important should be passed over without its representatives getting the power of returning even one member to the Commission.

The motion was put and negatived.

The section, as it stood in the Bill, was agreed to.

The HON. SIR HENRY HARRISON moved that in section X, clause 3, for "is caused by the Chairman of the Commissioners of the Town of Calcutta ceasing to act," read "is caused by a Commissioner other than the Chairman of the Commissioners of the Town of Calcutta, who, at the time of his appointment, was a Commissioner of the Town of Calcutta, ceasing to act,".

He said that the words which he proposed to alter clearly embodied a principle, and not merely a convenient expedient. He would first point out the principle embodied, and then contend that it was a wrong one, and that the object of his amendment was to suggest the right one. The Select Committee had given the right of electing one member to the Municipality of Calcutta, and the words which he objected to were that this right should be exercised when a vacancy occurred on the Board "by the Chairman of the Commissioners of the Town of Calcutta ceasing to act" as a member of the Port Trust. He submitted that that was clearly an indication of the view of the Legislature, that the vacancy thus caused corresponded with the election to be made. The making their election dependent upon the vacancy caused by their Chairman clearly suggested that the Port Commissioner to be elected should be the substitute for the Chairman. He thought it was equally clear that that was a wrong principle for the Council to adopt. The work done by the Municipal Chairman as a Port Commissioner was radically and substantially different from that which the representative of the Town of Calcutta should do. The Chairman of the Town Corporation had from the outset been appointed a member of the Port Trust, and the Municipal Act had always contemplated the probability of his being so appointed. The work of the Town Commissioners came into contact with that of the Port Commissioners all along the line, and the establishments of the one with the establishments of the other; and to avoid the friction which otherwise might ensue, it was desirable that the Chairman of the Municipal Commissioners should be a member of the Port Trust, so that he might be consulted *in camerâ*, instead of embarrassment being caused by correspondence. It was also clearly desirable that the Commissioner of Police should be on the Port Trust, as many police questions arose in which the Commissioner of Police had been able specially to arrange matters. The object of giving the election of a member of the Port Trust to the Town of Calcutta was, Sir Henry Harrison submitted, substantially and fundamentally different. What had just been stated by the Hon. Member in charge of the Bill in reply to the motion of the hon. member opposite (Mr. Anundo Mohun Bose,) that the native commercial interest would not be unrepresented, as the Municipal Commissioners might elect a native merchant—

[The HON. MR. MACAULAY observed that he had certainly no intention of saying that a member elected by the Municipal Corporation could be regarded as representing native commercial interests, and he believed that he had not said so.]

The HON. SIR HENRY HARRISON continued—Obviously the interests which the member elected by the Municipal Commissioners on the Port Trust were those of the resident community of Calcutta. The action of the Port Commissioners frequently affected the value of property in the town. It had been

pointed out that the construction of tea warehouses and other buildings by the Port Trust affected the rents of houses in town and the tea sales in town, and he had little doubt that the Calcutta Commissioners, if left to themselves, would select one of the more active of their number who would give effect to the interests of the residents of Calcutta. That interest was a totally and fundamentally different interest from the interests which the Chairman of the Calcutta Corporation represented. He represented executive interests—the interest of well-working and the absence of friction and collision between the two bodies. Not only was he there to prevent friction, but mistakes were committed which he was able to set right. In questions of water-supply, and drainage in connection with the new docks, it would be doubly important in future that the municipal executive should be represented on the Port Commission. What Sir Henry Harrison contended for was that the question whether the Chairman of the Municipal Commissioners should be on the Port Trust or not, was a question for the Government to consider, but that no attempt should be made to force the Commissioners into this dilemma—either the Chairman would not be on the Port Trust at all, or they must elect him. That, he submitted, would be the effect of the wording of the section as it stood. Hitherto they had others of their number on the Port Commission, and recently they had four, all nominated by the Government. What he, therefore, submitted was that this right of electing a member on the Port Trust should be made a real boon to the Town of Calcutta, and that they should understand that they were invited to elect a member who should represent them—not the executive working of the municipality, but the interests of the rate-payers. Consequently he only wished to embody in this section the right principle instead of a wrong principle. It should be open to them to elect their Chairman if they pleased, and similarly it would be open to the Government not to nominate the Chairman of the Municipal Corporation. As the law stood, if the Commissioners did not elect the Chairman, the Government could nominate him; but the Legislature should give in the law a right and not a wrong indication. The right indication would be that the election by the Municipal Commissioners should not be the election of the gentleman whom the Government had selected to preside over the executive working of the Municipality, but of one of their body who should represent the interests of the residents of the town, and it would still be left open to the Government to determine whether, all things considered, the Chairman of the Calcutta Corporation should or should not also be a member of the Port Trust.

The HON. BABU KALLY NATH MITTER said he was very glad to support this amendment, which he thought would make it clear that the Municipal Commissioners should elect some one of their own body to represent them on the Port Commission. If the intention was that such member should be their Chairman, then it would be no boon, because hitherto the Government had always appointed the Chairman to be a member of the Port Trust. This matter was discussed in Committee, and the possibility of the Municipal Commissioners electing a native gentleman to represent them was taken into consideration, and it was pointed out that, if that was done, the Government would

only be able to appoint another native gentleman on the Port Trust. Therefore, as far as the principle was concerned, he believed the Committee was of opinion that the Commissioners should not be hampered in their election. The effect of this section, as had been pointed out by the hon. mover of the amendment, would be that the Municipal Commissioners would be hampered in their choice, because, unless they elected their Chairman, there would be the difficulty that the executive interests of the Municipality would not be represented, and there would be the risk of a considerable amount of friction between the Municipal Commissioners and the Port Commissioners.

The HON. DR. MAHENDRA LAL SIRCAR thought the hon. mover of the amendment had very well shown the distinction between the interests represented by the Chairman of the Calcutta Corporation and the Municipality. The Chairman represented quite different interests from those which were represented by the Commissioners, and therefore he thought the Chairman should, if possible, be an *ex-officio* member of the Port Commission. Under the Bill it would be left to the Government to appoint the Chairman of the Municipal Commissioners or not as they considered fit, but the Municipal Commissioners should be left free to elect any other person than their Chairman. On these grounds he supported the amendment.

The HON. MR. MACAULAY said that he desired, first, to correct a misapprehension into which his hon. friend, Sir Henry Harrison, had fallen with reference to the remarks he had made in answer to the hon. mover of the last amendment. He had no intention of referring to the representation of the Corporation. He had pointed out that two native members would, in any case, be on the Board. His hon. friend wished that one native member should be elected by the National Chamber of Commerce, and Mr. Macaulay had said that the Government would be always anxious to see that native commercial interests were represented in the Port Trust, but that the question here was not whether those interests should be represented, but whether their representative should be chosen by the National Chamber of Commerce, which had yet to prove itself the real representative of the native commercial community, or be chosen by the Government.

With reference to the amendment before the Council, he wished to point out that section X was not intended to involve any principle. It was worded merely for the sake of convenience, in order to provide for the initiation of the elective principle in the Port Trust; and the Committee had found some difficulty in framing it, because, as they had three different bodies who would elect, they found it difficult to arrange how they were to take up their right of election as vacancies in the present Board fell in. They decided that the best way would be to allow the Chamber of Commerce to elect a successor when any Port Commissioner, who now happened to be a member of that body vacated office; when it happened to be the gentleman who represented the interests of trade, the Trades' Association should take up the right of election, and they had taken the opportunity of providing for the Corporation exercising this right when the vacancy was caused by its

Chairman vacating his office as Port Commissioner. But he would point out that it would be a dangerous thing, and would most seriously hamper the action of the Government, if the Council adopted the principle which his hon. friend said the amendment contained. It would be a dangerous thing first to limit the number of nominations, which the Government should have, to six, and then to insist that one of these should be given to the Chairman of the Corporation of the Town. [Sir Henry Harrison—"I never said that".] But that would be the result, if the Council adopted the amendment, under the explanation which his hon. friend had given. He maintained that, if the Council adopted the amendment as avowedly containing the principle which his hon. friend wished to assert, the Government would practically be bound to give one of the six nominations to the Chairman of the Corporation. He thought it very likely the Government would, when it could conveniently do so, nominate the Chairman, but there were conceivable circumstances when it might find it extremely inconvenient to follow that course. And if, when the vacancy occurred by the retirement of a Port Commissioner, who was a member of the Corporation, that body thought proper to elect their Chairman, then they would be substantially represented, and both interests would be subserved.

The HON. SIR HENRY HARRISON in reply said, that the Hon. Member in charge of the Bill had put the matter very fairly on principle; he fully conceded that the principle indicated by the amendment was the right one, but denied that the Bill indicated the opposite. This was a simple question, and the issues were clearly before the Council. As regards what the hon. member had said in reply to the hon. member opposite (Mr. Anundo Mohun Bose), the importance did not arise from the fact of its having been said, but from the argument itself. The argument was naturally a good one, that the member elected by the Municipal Corporation would, to some extent, represent native interests if they were unhampered in their choice. Sir Henry Harrison only contended that the question of the Chairman of the Corporation being on the Port Trust was substantially an executive question. Was it or was it not convenient and conducive to the well-working of the Municipality that the Chairman of the Corporation should be on the Port Trust in order to avoid friction between the two bodies? That was a question which the Government should decide, but the Commissioners would have a real boon given to them if they were expected to elect some one of their own body to represent the interests of the town.

The HON. THE PRESIDENT said that it should be noted that the last clause of section X provided that, thereafter all vacancies caused by elective Commissioners ceasing to act should be filled up by election by the respective elective bodies, and all vacancies caused by nominee Commissioners should be filled by appointment by the Government; so that really the question at issue was as regarded one individual, and though it might have been brought forcibly to the attention of Sir Henry Harrison that he was going away on leave, and that the provisions of section X might affect his place on the Port

[*The President; Mr. Anundo Mohun Bose.*]

Commission, His Honour thought the principle was a right one. It was quite possible that the Government might wish to have the Chairman of the Municipality as a member of the Port Commission, but that was a question which should be left entirely to its own judgment and discretion. In the case before them of the Hon. Member going away, according to him the Chairman of the Corporation should be appointed by the Government *ex-officio* as one of its number, but on the resignation of one other member of the Corporation on the Trust, like the Hon. Mr. Reynolds, creating another vacancy, the right of the Municipality to elect a member in his place would place the Government in a difficulty. It was always in the power of the Municipal Commissioners to appoint their own representative, and if to that was added the appointment, *ex-officio*, of the Chairman to the Corporation, it would reduce the number to be nominated by the Government to the Port Trust. The provisions of section X were purely for a temporary purpose, and provided only for the first elections. Under these circumstances, His Honour would vote against the amendment. He noticed that the native members of the Council who had spoken on both sides of the House, and who were in Committee, had deserted the Hon. Member in charge of the Bill. He did not know whether this question was raised or discussed there, but certainly no objection was taken by them to the particular question which was now raised.

The question having been put to the vote, the Council divided:—

Ayes 5.	*Noes* 6.
The Hon. Dr. Mahendra Lal Sircar.	The Hon. Mr. Irving.
,, Babu Kally Nath Mitter.	,, Moulvie Abdul Jubbar.
,, Mr. Anundo Mohun Bose.	,, Sir Alfred Croft.
,, Sir Henry Harrison.	,, Mr Allen.
,, The Advocate-General.	,, Mr. Macaulay.
	,, The President.

So the motion was lost.

The section, as it stood in the Bill, was agreed to.

The Hon. Mr. Anundo Mohun Bose moved that in section XI the words "elected or appointed" be inserted before the words "under this Act." He explained that as the section stood, all vacancies in the number of the Commissioners, whether appointed under Bengal Act V of 1870, or under this Act, should be filled by election or appointment, as the case might be, within one month, and it seemed obviously necessary that the language of the section should be altered. Under Act V of 1870 the Commissioners were only appointed. Under this Bill the Commissioners would be either appointed or elected. The object of the amendment was to state that whenever there was a vacancy amongst the Commissioners, whether elected or appointed under this Act, and not simply in the case of appointed members, the vacancy should be filled by election or appointment, as the case might be.

The motion was put to the vote and carried, and the section, as amended, was agreed to.

The Hon. Mr. Anundo Mohun Bose moved that to section XIII of the Bill the following words be added:—In section XV, before the words "some other

person" shall be inserted the words "or cause to be elected, as the case may be." This amendment, he said, was rendered necessary by the alteration in the constitution of the Port Trust. Section XV of Act X of 1870 provided that, in the case of the temporary absence of any Commissioner, it should be lawful for the Lieutenant-Governor to appoint some other person to act for him until he should return to Calcutta, or until he ceased to be a member. Under that Act, all the members of the Trust being appointed by the Government, whenever there was a temporary absence, the law necessarily laid down that the Lieutenant-Governor should appoint some other person to act for the Commissioner so absent. But after the passing of this Bill, when an elected Commissioner was temporarily absent and the Lieutenant-Governor thought it right to fill up the place until the return of the absent member, or until he ceased to act, Mr. Anundo Mohun Bose submitted that the only right and proper course would be to call upon the body which elected such Commissioner to appoint another person in his stead. But if this section was passed unaltered, the effect would be virtually to transfer that seat from the body which returned the absent member to the Lieutenant-Governor. He did not think that would be carrying out the object of the Bill, and there was no reason why the absence of a member should entail the punishment on the returning body of being temporarily disfranchised. Section XV of Act V of 1870 did not relate to the case of a vacancy, but only to the case when a member continued on the Board but was absent for a short period, and therefore section XII of the Bill which had been pointed out would not meet the case. Under the amendment which he proposed, the Lieutenant-Governor might appoint where the absent member was a nominated Commissioner, but where an elected Commissioner was so absent, another member might be appointed by the body which elected the absent member. He submitted that that was a necessary amendment which ought to be made, and the effect of a member being temporarily absent, who was an elected member, ought not to be to transfer the seat for the time being from the body which elected him to the Government.

The HON. MR. MACAULAY said he would first take objection to the form of the amendment. The introduction of these words "or cause to be elected, as the case may be," would afford no indication with regard to the manner in which the election was to be made, or by whom it was to be made. But as regards the merits of the amendment, this question was fully considered by the Select Committee, who were of opinion that it was desirable, in the case of these temporary vacancies, not to have recourse to election, and require these bodies to go through a series of forms, but to leave the appointment in such cases to be made by the Government. He thought the balance of convenience was in favour of that course, and there was no question of the elective principle involved.

The motion was put and negatived.

The section, as it stood in the Bill, was agreed to.

The HON. SIR ALFRED CROFT asked the permission of the President to move a trifling verbal amendment, namely, to substitute the phrases "elected Commissioners" for "elective Commissioners," and "nominated Commissioners"

for "nominee Commissioners," in section IV and in any other sections of the Bill in which those phrases occurred. In trying to find out the meaning of the phrase "elective Commissioner," he had considered other connexions in which the word "elective" was ordinarily used. It was used, for example, in the phrase "elective principle," which meant the principle that related to, or concerned, or governed election. It was used again in the phrase "elective body," that is to say, a body in whom was vested the right of election. But he must confess that the phrase, as it stood in the Bill, could not be said to be used in either of those senses. An "elective Commissioner" was not a Commissioner who was concerned with an election, nor was he a Commissioner who possessed the right of election. The phrase merely meant an "elected Commissioner"; and he therefore moved that the word "elected" be substituted for "elective." So with regard to the phrase "nominee Commissioner." A "nominee" was a nominated person; the difference between "nominee" and "nominated" being just the difference between the substantive and the adjective. The phrase seemed to savour of Teutonic complexity, if not of an Americanism. He therefore moved that in place of the word "nominee" the word "nominated" be substituted.

The Hon. Sir Henry Harrison said he had suffered much during the last few days from some of his friends who had also taken exception to the use of these phrases in the Bill, and who expressed their surprise that he could consent to the passing of a Bill in which these phrases occurred. But being very diffident he did not venture to put any notice of motion in his own name for the correction of these phrases. Now, however, that he had found a sturdier spirit come forward, he was glad to support the motion.

The Hon. Mr. Macaulay said the Council would no doubt expect from him some explanation of his conduct. He could only say that he had to plead other authority, inferior no doubt to the authority of his hon friend the mover of the amendment, but still respectable authority. The words were taken from the Bombay and Madras Acts. The Bombay Act, he believed, was in part the work of a distinguished member of the Bombay Civil Service, Mr. Max Melville, and had as well the authority of Mr. Raymond West and others; and Mr. Macaulay, though he had not himself liked the phrases, had felt diffidence in departing from their example. But, as he recognized his hon. friend as the very highest authority on questions of phraseology, he hoped the Council would accept the amendment.

The motion was put to the vote and carried, and the sections, as amended, were agreed to.

The Hon. Mr. Macaulay applied to the President to suspend the Rules for the conduct of business to enable him to move that the Bill be passed.

The Hon. the President having declared the rules suspended, the Hon. Mr. Macaulay moved that the Bill, as settled in Council, be passed.

The motion was put and agreed to.

The Bill was passed accordingly.

CALCUTTA MUNICIPAL CONSOLIDATION BILL.

The Hon. Sir Henry Harrison presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to the Municipal

affairs of the Town and Suburbs of Calcutta, and in doing so said:—The Selec Committee was called upon to make this Report on the 10th of January last, bu he had to express regret on behalf of the Select Committee that they had found i altogether impracticable to do so. The amendments which had been suggeste to the Committee had been very numerous indeed, and it had, therefore, take a very long time to give them that consideration which they deserved. They had therefore only been able now to present the Report. The Bill had been s materially altered that they recommended to the Council that its consideratio should be postponed to the next Session, in order that the public might hav the opportunity of considering the numerous alterations which had been mad in it.

ADJOURNMENT OF THE COUNCIL.

HIS HONOUR THE PRESIDENT said, the presentation of this Report on a Bi which has occupied my interest and attention during the last two years give me the opportunity of saying a few words, which will be the last which I shal be able to speak from this Chair. I do not think any one can impute to th Bengal Council that it has indulged in anything approaching to over-legislation I think we have during the past five years passed several important an useful measures, but the special character which will attach to the legislatio accepted by this Council during the past Lieutenant-Governorship will b that connected with the reform of municipal administration throughout thes Provinces. We passed an Act in 1884, which is already effecting a great deal o good in municipalities established throughout the mofussil. We passed Local Self-Government Act in 1885, which has been applied to speciall selected districts, and has shown, as far as we can judge at present, very fai results; and which is now being more widely extended to other less advance but more numerous districts, where there is every hope that the introduction of system of local administration, though novel to the country, will still secur the co-operation of the natives of Bengal in the conduct of their own loca affairs, ensuring thereby great relief to the Government and the political educa tion of the people of the country. I need not detain you by longer remark upon this point, except to say that, though I naturally regret that it has no fallen to my lot to see to its final conclusion the important Bill upon whic the Select Committee have now reported for the amendment of the Calcutt Municipal Act, I have the satisfaction of knowing that it will be in the hand of a successor who will devote to it the keenest interest, and that the delay whic arises from its unavoidable postponement to another Session will enable th fullest consideration to be given to the provision of a Bill which affects man interests.

And now, gentlemen, allow me to thank you, and through you those wh have preceded you as members, for the assistance and advice you have alway been willing to render, and the labour you have devoted to the work of thi Council. I do not think that in any of our discussions in this Council it ca be said that very heated language has ever prevailed; on the contrary, w

[*The President.*]

have enjoyed that serene calm in our deliberations and proceedings which is best suited to the elevated atmosphere in which our Council sits. It has been my endeavour, by the introduction into this Council of different sections of native representatives, of Hindu and Mahomedan gentlemen, and of those who can be the exponents of different interests in Bengal, to give wider intelligence and value to the character of our discussions, and I have reason to believe that very good results have followed in consequence. With the last opportunity I shall have of presiding amongst you, accept from me, gentlemen, my heartiest appreciation of your services, and my regret for the commission of any mistakes which I may have made. It happens that coincident with my own retirement is that of a very old servant of this Council, who is also about to leave his post and take his pension. I refer to Mr. Kirkpatrick, the Registrar of the Legislative Department, whom I have known, during all the years that I have had any connection with this Council, as one of its most valued and useful officers. I am glad to know that, in resigning his Registrarship, he will be able to retain his position as the official reporter of your proceedings, and I am sure I may wish him in your name many more years of life and success in the discharge of his duties. Now, gentlemen, I bid you all farewell.

The Council adjourned *sine die.*

CALCUTTA,
The 16*th April*, 1887.

GORDON LEITH,
Offg. Asst. Secy. to the Govt of Bengal,
Legislative Dept.

Reg No 2095G—200—6 5-87

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 *and* 25 *Vic., Cap.* 67.

The Council met at the Council Chamber on Saturday, the 3rd December, 1887.

Present:

The HON. SIR STEUART COLVIN BAYLEY, K.C.S.I., C.I.E., Lieutenant-Governor of Bengal, *presiding*.
The HON. G. C. PAUL, C.I.E., Advocate-General of Bengal.
The HON. H. J. REYNOLDS, C.S.I.
The HON. C. P. L. MACAULAY, C.I.E.
The HON. T. T. ALLEN.
The HON. SIR HENRY HARRISON.
The HON. SIR ALFRED CROFT, K.C.I.E.
The HON. MOULVIE ABDUL JUBBAR.
The HON. G. IRVING.
The HON. ANUNDO MOHUN BOSE.
The HON. BABU KALI NATH MITTER.
The HON. DR. MAHENDRA LAL SIRCAR, C.I.E.

STATEMENT OF THE COURSE OF LEGISLATION.

THE HON. THE PRESIDENT said—Gentlemen, it has been usual, I believe, for the Lieutenant-Governor at the beginning of each Session to lay before the Council a statement of the course of legislation likely to occupy their attention during the coming Session. On this occasion the list is not a long one, but I cannot on that account promise you that your labours will be light or of an unimportant character. The main item in the programme, the Bill concerning the Municipality of Calcutta and the Suburbs, is one which must under any circumstances take up a large measure of your time and occupy a great deal of your anxious care and attention. The Select Committee, as you are aware, sent in their report on this Bill at the end of the last Session, and I was in hopes that we should be able to set to work upon the Bill in Council at the beginning of this Session. But the Bill, as was natural from its character, excited a great deal of interest, and from various quarters we have

received reports and suggestions, and we have still to expect more of them. In the first place the Government of India have sent us a letter containing a score or so of suggestions, most of them on small matters, but one or two on important matters of principle; and to these are added a series of minor proposals connected with the drafting of the Bill. We have received a report from the Port Commissioners. Again I understand that the Trades' Association have also sent in a report which I have not yet seen, but which I am told objects strongly on some points to the principle of the Bill as at present adopted. Similarly, the European Defence Association have sent in a report in which they also take exception on some points to the constitution of the Corporation as proposed in the Bill. I am also informed that we are to expect within a very brief time reports from various important bodies, especially from the British Indian Association, from the Calcutta Municipality itself, from the Chamber of Commerce, from the Health Society, and possibly from other people. And finally Sir Henry Harrison informs me that in what may be called the adjective part of the Bill, that part which deals not with the constitution of the Corporation, but with the machinery and procedure for working the Act after the Corporation is constituted, in that part of the Bill he himself has a great number of small suggestions to make for amending the working of the law. Well, gentlemen, no one who has read the report of the Select Committee of last year can doubt that they devoted with all possible diligence their utmost care and attention to making the Bill a success. At the same time I think the members of that Committee themselves will agree with me in thinking that all these detailed suggestions that I have mentioned will best be considered in Committee, discussing them across the table in the first instance, rather than under the formal rules of debate which govern us in this Council. I have spoken to my hon. friend Sir Henry Harrison who quite agrees with my suggestion, and therefore it is that you will find upon to-day's motion paper his proposal to ask that the Bill be referred to the Select Committee of last year. It is not proposed to add a rider giving instructions as to the date within which the Committee is to report, but I may express my own hope that the Committee will be able to complete their work within six weeks, or at the very utmost two months, so as to give this Council time to discuss fully and to pass this Bill before the Session is over. The Session of course may go on for a long time, but still it is a great object not to

keep a question of this kind open longer than is necessary, and I shall do my utmost with your assistance to get it passed through the Council before we separate altogether. So much for the Municipal Bill.

I wish I could tell you that my projects for legislation ended here, but there is one small point which it is my duty to bring before you to-day. I have received from the Government of India a letter requesting me to lay before the Council a proposal for the amendment of the Bengal Municipal Law in one particular point. That Act, as you are aware, lays it down that the limits of municipalities may not be varied, except upon the initiative of the municipality itself. Well, gentlemen, the Government of India are anxious that I should ask you to amend the law on this point so as to bring it into line with the municipal laws in Northern India and elsewhere, so far as they empower the Local Government to withdraw from a municipality lands or premises in the occupation of Government for State purposes. The question, if I understand rightly, is not one primarily or at all events wholly of taxation; for we have already in Act XI of 1881 power sufficient to enable the Government to deal with taxation whenever they think that taxation is improperly imposed upon them. But the recommendation appears to be one based upon general considerations. The question, I may mention, came before the Government of India in two instances—one in which a reserved forest—a sort of property which you would not ordinarily expect to find included within a municipality, is included within the municipality of Darjeeling; and the other was in reference to the Ichapore gun foundry and the magazine connected with it. The question there was primarily one of the right of the municipality to enter the premises and inspect the drainage. The Government of India very properly instructed their officers in charge of the factory that he was to act according to law, and to give the municipality the facilities which the law required to enter the premises. But when they come to look into the matter further, it seems to have occurred to them, both in this instance and in the case of Darjeeling, that the Government ought to have the power to withdraw its own premises under special circumstances from the control of a municipality in such matters. In both of these cases the Government of Bengal expressed their unwillingness to disturb the principle which had recently been accepted by the Legislature, though in both cases they admitted that under the circumstances it would have been well that the premises in question had never been included within the municipality. The Government

of India, however, considered that the principle itself was a mistaken one, and they have accordingly desired me to bring before you a proposal to amend the law. We are not yet prepared with this Bill, and therefore the question is not ripe for discussion, but when my hon. friend Mr. Macaulay asks you for leave to introduce a Bill, the whole matter will be fully gone into. At present I merely mention it because it is right I should inform you that your attention is likely to be drawn to the subject during the present Session.

CALCUTTA AND SUBURBAN MUNICIPALITIES AMALGAMATION BILL.

THE HON. SIR HENRY HARRISON moved that the "Bill to amend and consolidate the law relating to the municipal affairs of the town and suburbs of Calcutta" be again referred to a Select Committee. In doing so he said that perhaps he might take the opportunity of adding a few remarks to what the Hon. the President had already said as regards the position of this Bill. The Bill had now been before the Council for two Sessions, but there was considerable difference as regards what His Honour had described as the substantive and the adjective portions of it. The substantive portion of the Bill had been placed before the Council two years ago, and had now been for two seasons before the public; but the adjective portion of it, which it was obvious required the utmost care and attention in matters of detail, was not put into shape until the Select Committee submitted its report last year, and therefore that portion of the Bill had really been before the public in a shape in which they could consider and discuss it for this past season only; and it was perfectly correct to say, much as the Committee took pains to settle it last year, that it still remained in a form which he thought was susceptible of improvement both by re-arrangement and by amendment in many matters of detail. As regards that portion of the Bill, therefore, it seemed very desirable that it should again have the attention of the Select Committee, who of course would consider it with reference to all the remarks and recommendations which several public bodies had been so good as to send in or were going to send in to the Council. At the same time, whilst that portion of the Bill specially required care and attention, it was naturally not the portion which attracted the greatest amount of attention and criticism. It was the substantive portion of the Bill which prescribed the proposed constitution of the new

municipality in which public bodies took most interest, although some of them undoubtedly, especially the Health Society, paid very considerable attention to matters of detail. As regards that portion of the Bill, it was a material question for the consideration of the Committee whether they would think it right or not to reconsider in any way the constitution of the Corporation which they adopted last season with reference to the criticisms and recommendations which had been received. The matter was one of extreme difficulty, because it was evident, from the reports which had come in, that the Committee would receive suggestions materially to modify the proposed constitution of the Corporation. What chiefly struck him in reading over these suggestions, and the Council would excuse him if he troubled them with a few words on this point, was not that the critics did not clearly see the defects, but that they did not clearly see the difficulty of applying the remedies, or the precise nature of the remedies to be applied. As he had on many occasions stated, the greatest defect in the present constitution of the municipality was the impossibility of securing the co-operation of the commercial element in Calcutta, especially of experienced men of business at the head of large mercantile firms. It was no secret that every Lieutenant-Governor had tried to obtain the co-operation of some of the leading members of the mercantile community, and it was equally no secret that they had almost invariably replied that they had not the time to spare. The difficulty was not solely that they were afraid of being outnumbered. The real difficulty was that, whereas native gentlemen who serve on the Corporation could devote a large amount of their leisure to familiarising themselves with the details of municipal work, obviously the leading men amongst the mercantile community had not the same leisure at their disposal, and it was difficult to get men without leisure to participate in work with men who had leisure. He believed the system of work which had gradually developed itself in the municipality was eminently advantageous and reasonable. Of course the greatest part of the work must be done by the executive officers, but that portion which the members of the Corporation were able to look into was chiefly done by Committees. Committees had no final power of their own, and were entirely subordinate to the Commissioners in meeting. The result was that the whole work of the Corporation was done by these Committees; but any single member of the Corporation, and the Chairman especially, who often availed himself of the power, could virtually appeal from the decision of a Committee, if he chose, to the great

body of the Commissioners. Therefore the Corporation, as a whole, had practically fallen into the position of a court of appeal on every great question of interest. In 19 out of 20 cases the decisions of Committees on minor questions were passed without discussion on the assumption that the work was done well; it was only the twentieth case that was fought out over again. It might appear, therefore, at first sight, as if a man without leisure might participate in this work of an appellate tribunal, where of course he would have the opportunity of practically directing the whole policy of the municipality in that way. Here again, however, a fresh difficulty arose. When large questions of principle came up for final discussion in general meeting, it could not but be expected that the men of leisure who naturally took an interest in the work which they had helped to complete would also naturally be prepared to discuss at length the questions which were under consideration; but the men of business would not like to sit for two or three hours to discuss them. It was unreasonable to suppose that this could be otherwise, and when European gentlemen did take an interest in such matters they themselves fell into the habit of making as long speeches as Native gentlemen. Some of the longest speeches he had ever listened to were made by European gentlemen in debates in which they were taking a great interest. It seemed, therefore, impossible to expect that men to whom time was of the utmost value could sit out such discussions. It was not, he thought, so much a question of numbers. He did not think that was the real difficulty. The difficulty was that the business of the Corporation must be managed in a way which involved the possession of a certain amount of leisure; and as regards the element most needed, broad views of important questions affecting the commercial welfare of the town, the men who would be of the greatest service to the Corporation could not afford the time required. That was the problem which, so far as he could see, it was necessary to solve. He did suggest at one time paying the members of the Town Council, because then it might be hoped that though such men would not care for the fee itself, they would see that there was an obligation upon them to go through with a sitting; men who were paid for their attendance would feel that they were bound not to be impatient. But that proposal, although approved in some quarters, did not meet with strong approval, and the suggestion was not adopted. As far as he could see, whatever the number might be, the difficulty would be this, that the only Europeans who could be got to assist in the affairs of the municipality were a few men who were either retired Government pensioners, or

others who, for some particular reason, happened to have the necessary amount of leisure. Consequently, he was bound to say that he had little doubt that in the new Corporation, as in the old, those gentlemen who could afford the time would be those who would most generally settle its affairs.

For the rest, the great aim of the Select Committee should be to see if they could make the Corporation consist of the most varied kind of Commissioners. One objection he had to the present system of election was that its tendency was to give just the same type of men for most of the wards. In each case the ward elected the same type of Commissioner, some one who would give attention to its affairs. Hence the large amount of attention which was now given to the small wants of the inhabitants. In that respect he must say that the amount of good work done by the Corporation had been enormous. They were always being plied with suggestions for small improvements, which affected perhaps the convenience of a few hundred persons residing in the ward, such as making a path here, rounding off an awkward corner there, constructing a bathing platform in a third place, and small matters of that kind. The local convenience of the inhabitants had been studied a great deal, and as the result, it was hardly too much to say that various parts of Calcutta had in that way been improved in the course of the last few years to such an extent that the value of land had been at least doubled. Whilst on the one hand the Commissioners had done what their constituents expected them to do, viz., look after their own small wants, there was, he feared, no doubt that the spirit of the Corporation had been too parochial. That had been the difficulty. If a person had studied the constitution of the municipality scientifically, *à priori*, he would have anticipated the very defect which experience had revealed, viz, that whereas all small matters of local interest would receive the greatest possible attention and the greatest possible encouragement, on the other hand the larger requirements of the town would not receive equal attention. That was a result which must be expected if the Council could not see their way to get men to represent anything but small local areas, who would mainly look after their own local interests, and when elected would consider that they best discharged their duties by looking to the special wants of their wards. He at one time suggested that the town should be divided into larger wards, with a larger number of members to each ward. This suggestion met with but little support. It was curious to see how the same view prevailed in other places. In Bombay, where they had larger wards, the executive were most anxious to retain them in the new Bill;

but one of the recommendations of the Corporation was to divide the town into smaller wards, so that each Commissioner should represent the wants of a small body. That showed a natural feeling that they preferred to have more clearly defined wants of small bodies to represent, and be brought nearer their constituents—a very natural wish and very good up to a certain point. It showed the same feeling there also on the part of the officers of the Corporation, who wished to obtain Commissioners with wider and broader views. Probably or possibly something between the two might be done which would be an improvement—a certain number of members to represent local wants and a certain number to represent metropolitan wants. This was a matter on which it was impossible for him to do more than to express a general opinion, and he presumed the Select Committee would take care to consider whether any improvement could be made, or whether, looking at all the difficulties and objections to any other course, they would think it best to leave the constitution of the Corporation as it was at present framed.

THE HON. BABU KALI NATH MITTER said he did not know whether he would be out of order, but he thought a few words from him on the present occasion would not be out of place. The Hon. Mover of the Bill had pointed out the difficulty of getting gentlemen belonging to the mercantile community to serve on the Municipal Commission. That was a difficulty which, to the speaker's mind, was insurmountable, unless merchants themselves would come forward to offer their services. It was quite possible that by means of election, pure and simple, several members of that community might be elected if any interest was taken in returning members from it. He thought it was a mistake to ground a complaint on the fact that commercial interests were not represented; because we know that as a matter of fact persons representing those interests did not take such an amount of interest in the affairs of the Municipality as would induce them to offer themselves for election. If the election returns were examined, it would be seen that hardly any eminent persons belonging to the mercantile community ever came forward to be elected, and very few of them registered themselves as voters. The consequence was that other communities were able to return a larger number of representatives. He quite admitted everything that Sir Henry Harrison had said with reference to the local wants of the inhabitants being attended to by the Commissioners; but Sir Henry Harrison was not correct in saying that the same amount of interest was not taken in the

consideration of larger questions which did not concern particular wards. Those were, matters in respect of which the members of the Corporation who were nominated by the Government might be supposed to take interest, as they were nominated by the Government and did not represent the interests of any particular ward; and it would naturally be within their province to interest themselves in the consideration of those larger questions concerning improvements of a general character. He put it to Sir Henry Harrison to say whether the nominated members of the Corporation had taken such an amount of interest in the affairs of the Corporation as might be expected. If they had not done so, he thought it was a very strong argument against the system of nomination. If, on the other hand, the nominated Commissioners had taken a keen interest in the work of the Corporation, and had done good work, that would be in favour of preserving the system of nomination. But he believed it would be admitted that on the whole the same amount of interest had not been taken by the nominated members as by the elected Commissioners in the affairs of the Corporation. It was very difficult to say how persons could be compelled to serve on the municipality who were unwilling to do so. He did not admit that the elected Commissioners had not taken the same amount of interest in large questions as they did in small matters. On the contrary, he believed they had taken the greatest interest in some of the largest measures which had come before the Commissioners. Take the water-supply extension scheme for instance. The special Committee for the consideration of that question was composed mostly of elected Commissioners and though there were some nominated members upon it, still if the records of the Corporation were searched, it would be seen that it was the elected Commissioners who gave their time and attention to the matter, and that in fact the scheme was the scheme of the elected Commissioners. He could well understand his hon. friend not quite approving of the present system of election as it must not be forgotten that he, as Chairman of the Corporation, did not in some instances meet with the support which he expected. That would be the case under any constitution, and it could not be controlled in any way.

The motion was put and agreed to, and the Bill was again referred to the Select Committee consisting of the Hon. Mr. Reynolds, the Hon. Mr. Macaulay, the Hon. Mr. Allen, the Hon. Moulvie Abdul Jubbar, the Hon. Mr. Irving, the Hon. Babu Kali Nath Mitter, and the Mover, the Hon. Sir Henry Harrison.

The Council was adjourned to Saturday, the 17th December, 1887.

CALCUTTA;
The 6th December, 1887.

GORDON LEITH,
Offg. Asst. Secy. to the Govt. of Bengal,
Legislative Department.

Reg. No. 1140G—100—23-14-88.